

Application No. 10/757,874
Amdt. dated October 28, 2005
Reply to Office Action dated August 23, 2005

REMARKS

Claims 1-30 are now presented for examination. Claims 1, 11, 19, and 27 are independent. Claims from 1-2, 7-8, 11-12, 17-19, 22, 27-28 have been amended to define more clearly what Applicant regards as her invention, in terms which distinguish over the art of record.

Support for the amendments can be found in paragraph 24 (which describes how the beads are free to shift about in response to pressure) and in paragraphs 17 and 24 (which specify stretch cotton jersey fabric, an air-permeable fabric).

In the Office Action, claims 1-2, 5-6, 8-12, 15-16, 19-23 and 24-30 were rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent No. 5,392,534 (Grim). Claims 3, 4, 7, 13, 14, 17, and 18 were rejected under 35 U.S.C. § 103 as obvious over Grim taken in combination with either U.S. Patent No. 6,061,928 (Nichols), U.S. Patent No. 3,449,844 (Spence), or U.S. Patent No. 4,843,736 (Courian).

Claim 1 is directed to a sandal with an upper sole, a lower sole, and a plurality of unamalgamated beads disposed between the upper sole and the lower sole. These beads are retained between the upper sole and the lower sole by air-permeable structures that constantly permit the permeation of air from the immediate vicinity of the sandal into the beads. In addition, the beads are packed loosely enough so that they always remain free to shift around in response to changes in pressure that occur during ordinary walking.

Both of these newly recited features distinguish claim 1 over Grim, since the beads in Grim are retained within an "air tight bladder 18." (See Grim at col. 2, lines 54-55.) The fact that the bladder in Grim remains air tight after the initial phase of use is key to the operation of Grim's invention, since an air tight seal is required to keep the vacuum that causes the spherical particles in Grim to engage each other and "retain a 'set' that conforms to the bottom of the [user's] foot." (See Grim at col. 3, lines 38-46.) In fact, the air tight bladder is even called out in Grim as "an important part" of Grim's shoe. (See Grim at col. 2, line 55.)

The interactions between the beads and the bladder in Grim is therefore diametrically opposed to the behavior of the beads in the sandal of claim 1, where the beads never attain a

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similar "set," and always remain free to shift around in response to changes in pressure that occur during ordinary walking. Claim 1 is therefore believed patentable over Grim.

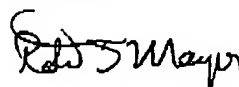
Claims 11, 19, and 27 each include limitations similar to those discussed above in connection with claim 1, and those claims are therefore believed patentable for the same reasons as claim 1. The other claims in this application each depend on one of the independent claims discussed above and are therefore also believed patentable for the same reasons. However, since each dependent claim is also deemed to define an additional aspect of the invention, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

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Respectfully submitted,

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